THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 25158 of 2005

Dated: 28.11.2005

Between:

P. Koteswara Rao
Bhimavaram Depot, R/o Bhimavaram,
W.G.Dist.

..... PETITIONER

AND

The APSRTC, Rep by its MD,
Musheerabad, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25158 of 2005

O R D E R:

The petitioner is employed as driver in APSRTC. He was issued a Charge Sheet, dated 23.01.1991, on the allegation that he drove the bus in a rash and negligent manner on 08.01.1991 at 08.15 hours and caused motor accident, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the third respondent passed an order, dated 26.10.1992, imposing the penalty of withholding the annual increment, for a period of one year, with cumulative effect. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the third

respondent imposed the penalty of withholding the annual increment, for a period of one year, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB,*** and submits that withholding the annual increment, for a period of one year, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondents on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the third respondent imposed the penalty of withholding the annual increment, for a period of one year, with cumulative effect, on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the third respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated, as the one for withholding the annual increment, for a period of one year, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 26.10.1992, passed by the third respondent, shall be treated as the one for withholding the annual increment, for a period of one year, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits, up to the date of this order. There shall be no order as to costs.

28th November 2005

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